

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

FREDERICK BANKS	§	
VS.	§	CIVIL ACTION NO. 1:17cv304
ADRIAN ROE, ET AL.	§	

MEMORANDUM OPINION REGARDING VENUE

Plaintiff Frederick Banks, an inmate currently confined at the Northeast Ohio Correctional Center in Youngstown, Ohio, proceeding *pro se*, brings this lawsuit against Adrian Roe, Mark R. Hornak, Robert Cessar, Soo Song, Sean Langford, Robert Werner, Scott Smith, Mike Pompeo, the Federal Bureau of Investigation, and the Central Intelligence Agency.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Factual Background

Liberally interpreted, plaintiff's complaint is construed as asserting that the defendants have intentionally delayed a criminal prosecution to keep him confined beyond his maximum term of confinement. Plaintiff seeks declaratory relief and monetary damages in the amount of \$55,000,000.00.

Analysis

The Civil Rights Act, 42 U.S.C. §1981, *et seq.*, under which this case is brought, does not contain a specific venue provision. Accordingly, venue in civil rights cases is controlled by 28

U.S.C. § 1391. *Jones v. Bailey*, 58 F.R.D. 453 (N.D. Ga. 1972), *aff'd per curium*, 480 F.2d 805 (5th Cir. 1973).

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. Plaintiff's claims arose in Pittsburgh, Pennsylvania. In accordance with 28 U.S.C. § 118, Pittsburgh is located within the jurisdictional boundaries of the Western District of Pennsylvania. Further, the defendants reside in Pittsburgh, Pennsylvania where the claims arose.

As Pittsburgh, Pennsylvania is located in the Western District of Pennsylvania, venue in the Eastern District of Texas is not proper. When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). This case should be transferred to the United States District Court for the Western District of Pennsylvania, Pittsburgh Division. An appropriate order so providing will be entered by the undersigned.

SIGNED this the 2nd day of August, 2017.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE